IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 10114 of 1993

Between:

1.. M.Rama Rao S/o. Sathaiah
R/o.Mandapeta , Mandapeta Mandal East Godavari District.

2.. M.Balakrishna Sai S/o. M.Rama Rao
R/o.Mandapeta , Mandapeta Mandal, East Godavari District.

..... PETITIONERS

AND

1 The Chief Engineer,
Cyclone Emergency Reconstruction Project Dowlaiswaram,

East Godavari District.
2 The Executive Engineer,
Division-II , Cyclone Emergency Reconstruction Project , Dowlaiswaram, East Godavari District.
3 The District Collector, East Godawari District, Kakinada.
4 The Sub-Collector, Rajahmundry, East Godavari District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ order or direction, more particularly one in the nature of writ of Mandamus, directing the respondents to pay the Compensation Immediately to

the petitioners towards the 39 Coconuts Trees, Cattle Shed and Bore-Well which were demolished in S.No.2 and 3/1 of Vedurumud (V), E.G.Dist from 0.0.Km to 0.700 Km of Right side Gummileru drainage channel.

Counsel for the Petitioner: MR.G.KRISHNA MURTHY

Counsel for the Respondents: G.P. FOR IRRIGATION

The Court made the following:

ORDER:

This writ petition is filed seeking compensation towards coconut trees, cattle shed and bore-well, which were demolished in S.No.2 and 3/1 of Vedurumudi village, East Godavari District for widening of the drainage channel.

The petitioners claim to be owners of land to an extent of Ac.4-00 covered by Sy.No.2 and an extent of Ac.3-45 cents covered by Sy.No.3/1 of Vedurumudi village, Kapileswarapuram Mandal, East Godavari District, which are situated adjacent to Gummileru drain. The petitioner is said to have dug a bore well, constructed a thatched shed and raised coconut trees therein. The respondents authorities alleged to have proposed to develop the drain with World Bank funds by removing the thatched shed, coconut trees and the bore well of petitioners. On coming to know about the said proposal, petitioners issued a notice informing that the coconut trees, thatched house and bore well are far away from the drain and requested not to remove the same. The grievance of the petitioners is that the respondent authorities without following the due process of law and without paying any compensation removed the coconut trees, thatched house and bore well. Hence, the present writ petition.

The respondents filed a counter-affidavit denying the averments made in the affidavit. It is stated that the petitioners had raised the coconut trees in the Government land and cultivating the same by lifting water from the bore well and constructed a thatched shed obstructing the formation of the drain. It is further stated that the respondents had not removed the coconut trees and the same were removed by petitioners themselves. It is also stated that the motor shed and motor were not disturbed and the same are still intact.

Learned Counsel for the petitioner submitted that immediately after removal of the trees the petitioners had filed a representation dated 28-3-1993. It is also submitted that pecuniary loss was caused to the petitioners due to expansion of drainage channel and to evidence that, he relied on the letter issued by the Mandal Revenue Officer in proceedings R.C.C.No.229/93 dated 9-2-1994, wherein it is stated that 25 coconut trees, a bore well shed in Survey No. 2 in an extent of Ac.0-39 and 14 bamboo trees in Survey No. 3/1 in an extent of 0-19 cents were removed and petitioner sustained damages. It is further stated that in similar matters in W.P. No. 28237 of 1995 dated 25-4-1997 and W.P. No. 6644 of 1993
dated 8-7-1993, this Court has directed respondent
Nos.3 and 4 i.e., the Executing Engineering and the Revenue Divisional Officer, Amalapuram Division, Amalapuram, to entertain the applications for claim of compensation, filed by the petitioners therein and fix the compensation payable to the petitioners.

Inasmuch as it is stated that the facts of this case are similar to the writ petitions in W.P. Nos. 6644 of 1993 and 28237 of 1995 that were disposed of on 8-7-1993 and 25-4-1997, it is appropriate that this writ petition also be disposed of with the directions as made therein. Accordingly, the writ petition is disposed of directing respondent Nos. 2 to 4 to entertain the claim applications of the petitioners, examine the same, and if the petitioners substantiate their claim by placing necessary material, take necessary steps to determine the compensation and pay the same in accordance with law.

Accordingly, the writ petition is disposed of. No costs.

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N.V. RAMANA, J

29-09-2004

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To

1 The chief Engineer, Cyclone Emergency Reconstruction Project Dowlaiswaram, East Godavari District.

2 The Executive Engineer, Division-II , Cyclone Emergency Reconstruction Project , Dowlaiswaram, East Godavari District.
3 The District Collector, East Godawari District, Kakinada.
4 The Sub-Collector, Rajahmundry, East Godavari District.

5. 2 CCs to the Government Pleader for Irrigation, High Court Buildings, Hyderabad (OUT).

6. 2 CD copies.